

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RALPH FRANCIS DELEO,
Defendant

v.

Case No. 09-10391-DPW

UNITED STATES OF AMERICA

MOTION FOR APPOINTMENT OF COUNSEL

Defendant filed an amendment to his 28 U.S.C. §2255 motion arguing new Supreme Court rule, that the government violated his Sixth Amendment right to counsel by depriving him "a fair opportunity to secure counsel of his choice...that he can afford to hire, by freezing his untainted asset's while in pretrial lockdown, causing a structural error that so affect's the framework of the trial."

The defendant potentially raises important and difficult questions under *Luis v. United States*, 2016 BL 98101, U.S., No. 14-419 (March 30, 2016).

The Criminal Justice Act provides for the appointment of counsel in §2255 cases when justice so requires. 18 U.S.C. §3006 (a)(2)(B). The appointment of counsel for a pro se prisoner is proper in a §2255 case where "the petitioner has made a colorable claim, but lacks the means to adequately investigate, prepare or present it." *United States v. Aleman-Ramos*, 2007 WL 112274, at *1 (W.D. Mich. April 16, 2007)

The defendant has presented a colorable claim that the new Supreme Court ruling "...considered the wrongful deprivation of the right to counsel a 'structural' error that so affect[ts] the framework within the trial proceeds that court's may not even ask whether the error harmed the defendant." United States, v. Gonzalez-Lopes, 548 U.S. 140, 148 (2006) see Id., at 150; that requires legal development beyond that which can be reasonable expected of a pro se defendant.

For these reasons, the defendant request that the court appoint the defendant counsel under the Criminal Justice Act.

Respectfully submitted

Ralph F. DeLeo

Date: April 25, 2016

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CERTIFICATE OF SERVICE

I hereby certify that I have mailed the original motion for the appointment of counsel pursuant to the Criminal Justice Act 18 U.S.C. §3006(a)(2)(B) to the Clerk of Court's and to AUSA Timothy Moran, on this day, April 25, 2016.

Timothy Moran, AUSA
J.J. Moakley U.S. Courthouse
One Courthouse Way
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Bastion, MA 02210

Ralph F. DeLeo

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